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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:17-CR-74 JCM (NJK)

8 Plaintiff(s),

ORDER

9 v.

10 DERECK VINCENT FESOLAI,

11 Defendant(s).

12
13 Presently before the court is the matter of *United States of America v. Fesolai*, case no.
14 2:17-cr-00074-JCM-NJK. Petitioner Vincent Fesolai (“petitioner”) filed a motion to vacate, set
15 aside, or correct sentence under 28 U.S.C. § 2255. (ECF No. 55). The court has examined the
16 petition and finds that further briefing is appropriate. The United States of America
17 (“respondent”) shall file a response twenty-one days from the date of this order. Thereafter,
18 petitioner will have fourteen days to file a reply.

19 Also before the court is assistant federal public defender Amy B. Cleary’s motion to
20 withdraw as attorney. (ECF No. 54).

21 Local Rule IA 11-6(e) provides that “[e]xcept for good cause shown, no withdrawal or
22 substitution will be approved if it will result in delay of discovery, the trial, or any hearing in the
23 case.” LR IA 11-6(e). There is currently no discovery, trial, or hearing pending. Thus, Ms.
24 Cleary’s withdrawal will not delay the instant case from proceeding.

25 Ms. Cleary indicates that good cause exists for her withdrawal. Ms. Cleary represents
26 that there is “a prohibitive conflict of interest in this matter that prohibits [the federal public
27 defender’s office] from engaging in any analysis, research, or review of this matter beyond
28 viewing publicly available documents.” (ECF No. 54 at 2).

Consequently, the court grant's Ms. Cleary's motion.

Accordingly,

IT IS HEREBY ORDERED that respondent shall file a response to petitioner's motion to vacate, set aside, or correct sentence (ECF No. 55) no later than twenty-one (21) days from the date of this order. If respondent files a response, petitioner's reply is due fourteen (14) days thereafter.

IT IS FURTHER ORDERED that Ms. Cleary's motion to withdraw (ECF No. 54) be,
and the same hereby is, GRANTED.

IT IS FURTHER ORDERED that petitioner shall be appointed counsel pursuant to the Criminal Justice Act and General Order 2019-06.

IT IS SO ORDERED.

The clerk is instructed to file this order in the instant matter and in the related civil case, no. 2:20-cv-00393-JCM.

DATED February 26, 2020.

James C. Mahan
UNITED STATES DISTRICT JUDGE